

REMARKS

In the last Office Action claims 34-41, 51 and 68-70 were withdrawn from further consideration as readable on a non-elected invention. Claims 36-37, 42-46, 48-50, 52-55 and 62-63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilt et al. in view of Roustaei. Claims 47, 56-61 and 64-67 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilt as modified by Roustaei as applied to claim 36 and further in view of Wang et al. Claims 71-78 inclusive were objected to as being dependent upon a rejected base claim but were indicated as being allowable if re-written in independent form.

Claims 36 and 37 have been amended, claims 71-78 as presented in the amendment filed October 9, 2001 have been canceled without prejudice in order to advance the prosecution of the present application and new claims 79-86 have been substituted therefore. It is noted that claims 71 and 72 had previously been presented in the amendment of April 4, 2001 and accordingly the same claim numbers were used twice. This has been obviated by the cancellation of claims 71-78 as presented in the response of October 9, 2001. It is noted however that claims 71 and 72 as presented in the amendment of April 4, 2001 were not considered by the Examiner in the last Office Action. Reconsideration and allowance of the application are respectfully requested in view of the following remarks.

Claims 36 and 37 have been amended to eliminate any reference to the “first and second illumination configuration”. The Examiner apparently considered this term to cover both the cases where different light sources are selected as taught by Wilt and different modulation of the intensity of light of the light sources as taught by Roustaei. However according to the present

invention there is no modulation of the intensity of the light sources in order to read codes placed at different distances but just a selection or activation of different groups of light sources.

The patent to Wilt does not give any suggestion on how to read optical codes placed at different distances and Roustaei suggests the reading of optical codes placed at different differences by only modulating the intensity of the light of the light sources. Thus any combination of these references as proposed by the Examiner would necessarily require that the intensity of light of the light sources must necessarily be modulated.

Claims 36 and 37 as amended clearly recite that in order to read optical codes placed at different distances it is sufficient to selectively activate different groups of light sources (these groups being different in that at least one light source activated in one group is not activated in the other group. Therefore claims 36 and 37 are clearly believed to be patentable over Wilt and Roustaei taken either alone or in combination with each other. Accordingly claims 36 and 37 as well as the claims dependent therefrom are considered to be allowable. New claims 79-86 are also considered allowable since the independent claims of this group are the previously allowed claims presented in proper independent form.

Amendment Under 37 C.F.R. § 1.111
USSN 09/320,643
Attorney Docket Q54188

If for any reason the Examiner is unable to allow the application on the next Office Action and feels that an interview would be helpful to resolve any remaining issue, the Examiner is respectfully requested to contact the undersigned attorney for the purpose of arranging such an interview.

Respectfully submitted,



Robert V. Sloan
Registration No. 22,775

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE



23373

PATENT TRADEMARK OFFICE

Date: March 5, 2003